IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1088 OF 2005
IN
SUIT NO.1320 OF 2004

Santosh G. Rane ....Plaintiff
V/s.
Maharashtra Housing & Area Development Authority and others ....Defendants

Mr.Rakesh Kumar i/b Legal Vision for the Plaintiff.
Mr.G.W. Mattos, A.G.P. for Defendant Nos.1 to 3.
Ms.Usha Purohit for Defendant No.4.

CORAM : S.J. VAZIFDAR, J.
DATED : 9TH JANUARY, 2006.

P.C. :

1. The Chamber Summons is for amendment. The suit is filed for a declaration that the Plaintiff alone is the existing cable operator in the area mentioned in prayer (a) and that therefore the Plaintiff alone is entitled to match the highest bid as per the order of a Division Bench dated 6th December, 2001. The Plaintiff has sought a declaration that the tender notice dated 28th May, 2003 issued by Defendant No.1 for the said area be quashed and set aside. The Plaintiff has further sought a direction for deletion of the name of Defendant No.4 from the list of the existing cable

operators for the said area and for directing the Defendants to retain the name of the Plaintiff as the only cable operator for the said area.

2. The order dated 6th December, 2001, inter-alia provided as follows :-

> "The features of the said policy will inter alia be as under :
> .....
>
> (c) Acceptance of the highest bid.
>
> In case the existing Cable Operator / petitioner who is operating is ready to match the highest, then he should be given preference over the highest bidder."

3. The tender process was thereafter carried forward. By an order/decision dated 3rd December, 2004, the rights have been given to the Plaintiff and Defendant No.4 equally. The Plaintiff’s contention is that the same is contrary to the aforesaid order in terms whereof Defendant No.1 had also formulated the policy. Whether in fact this is so is a different matter. Even assuming it is so, the consequence thereof is an issue not relevant for the purpose of the present Chamber Summons.

4. It is this decision dated 3rd December, 2004

which is now sought to be challenged by the proposed amendment. The amendment certainly relates to the principal prayer in the suit which I have referred to above. In fact it would follow as necessary consequence thereof.

5. The only objection to the Chamber Summons was that the decision dated 3rd December, 2004 was pursuant to a fresh tender notice dated 24th June, 2004 and not the tender notice dated 28th May, 2003. which has been challenged in the suit. Even assuming that this is so, the present Chamber Summons ought to be allowed as the reliefs flow from prayer (a) of the plaint itself. The technical plea that the Plaintiffs have failed to challenge the alleged fresh tender notice dated 24th June, 2004, cannot deprive the Plaintiffs of their rights.

6. The Chamber Summons is made absolute in terms of prayers (A) and (B). The amendment to be carried out within four weeks from today. No order as to costs.

7. This order is without prejudice to the pending interlocutory proceedings and orders, if any, therein.